

**CITY OF MIAMI BEACH**  
**Office of the City Manager**  
Letter to Commission No. 091-2005



**To:** Mayor David Dermer and  
Members of the City Commission

**Date:** April 11, 2005

**From:** Jorge M. Gonzalez  
City Manager

A handwritten signature of Jorge M. Gonzalez in black ink.

**Subject: POTAMKIN - DEVELOPMENT AGREEMENT**

Attached is the latest draft of the 5<sup>th</sup> and Alton Development Agreement. The latest revised draft is expected this week and will incorporate substantive changes to the following sections within Exhibit E – Material Provisions of Declarations:

- Page 86, 4(c)(viii) - the underlined phrase "to the sole satisfaction of Developer" will be amended to read "to mutual satisfaction of the parties."
- Page 90, 4(e)(iii) - this section discusses, in part, the requirement for the Developer to provide an Extended Warranty pursuant to Florida Statutes where a Condominium applies. The City requested a condominium arrangement, as opposed to an "Air Rights" deal, and agreed to treat the payment for the Extended Warranty as an operating expense. The Developer, concerned about the enforceability of this, requested punitive language be added if the City tried to challenge this arrangement. Since staff has objected to the punitive language, the Developer is checking with the State for their recommendation as to how to resolve. This appears to be an issue of how to draft the language, as both parties agree on concept.
- Page 97 - Condemnation - this article will be amended to specifically reflect that the City will receive the Fair Market Value at the 56% of Value Rate, or the City's Contribution at 4% simple interest, whichever is greater.

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There are other minor language revisions that are anticipated in the final draft; the effect of which is to clarify the business deal. It is expected that a Final Draft will be presented with the agenda item later this week.

This is offered, however, to provide a preliminary copy of the Agreement due to its complexity.

JMG/TH/rar

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